



MTA BOARD
AUGUST 28, 2003

SUBJECT: PUBLIC HEARING RE: RESOLUTION OF NECESSITY

ACTION: ADOPT RESOLUTION OF NECESSITY

RECOMMENDATION

- A. Hold a public hearing on the resolution of necessity for the acquisition of project Parcel No. ES-654 for the Eastside Light Rail Project – West Portal project enhancements, between Gless Street and U.S. Highway 101.
- B. Adopt the attached Resolution of Necessity authorizing the commencement of an eminent domain action to acquire Parcel No. ES-654.

RATIONALE

Acquisition of Project Parcel No. ES-654 is required for the project enhancements for the West Portal to the subway segment of the Eastside Light Rail Project, including the widening of 1st Street, the construction of a sidewalk of variable width, and new retaining walls in the vicinity of First Street and the 101 Freeway ramp and to increase the turning radius from the 101 Freeway off-ramp onto 1st Street.

Staff has been unable to present a written offer to the owner of record, as required by California Government Code Section 7267.2, because the owner cannot be located. Various certified, return-receipt requested letters have been mailed to the owner of record at the address listed on the Los Angeles County Tax Assessor's Roll as well as other addresses where the owner may have resided. Letters were mailed dated February 18, 2003, April 30, 2003, May 5, 2003, June 20, 2003, and July 17, 2003. No response has been received to any of the letters addressed to the owner. In addition, an investigator retained by County Counsel conducted a search of the California voter registration rolls, utility company records, telephone records, Secretary of State records, marriage records, death records and property records in an attempt to locate the owner, but was unsuccessful in finding the residence or business address for the owner. The investigator's declaration regarding his due diligence in trying to locate the owner of record is attached. Because of the imminent need to proceed with construction activities on this parcel, staff recommends the acquisition of this parcel through eminent domain.

In accordance with the provisions of the California Code of Civil Procedure Section 1245.210, et seq. and Sections 30503, 30660 and 130220.5 of the California Public Utilities Code (which authorize the MTA to acquire property by eminent domain), the MTA has prepared and mailed notice of this hearing to the address of the record owner that appears on the last equalized county assessment roll and the City Clerk of the City

Metropolitan
Transportation
Authority

One Gateway Plaza
Los Angeles, CA
90012-2952

of Los Angeles, informing them of their right to appear at this hearing and be heard on the following issues: (1) Whether the public interest and necessity require the proposed Project; (2) Whether the proposed Project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury; (3) Whether the subject parcel, is necessary for the proposed Project; and (4) Whether an offer was made in compliance with Government Code Section 7267.2, or if not, whether the offer has not been made because the owner cannot be located with reasonable diligence.

After all of the testimony and other evidence has been received by the MTA from all interested parties, the MTA must make a determination as to whether to adopt the proposed resolution of necessity to acquire the subject parcel by eminent domain. In order to adopt the resolution, the MTA must, based upon all the evidence before it, find and determine that the conditions stated above exist. Attached is evidence (Attachment 1) submitted to staff that supports adoption of the attached Resolution that has been approved by counsel, and which sets forth the required findings.

FINANCIAL IMPACT

The acquisition of Parcel ES-654 is included in the approved Eastside Light Rail Project Budget, and funds are available to proceed with the acquisition.

ALTERNATIVE CONSIDERED

The subject property is required for the project enhancements for the West Portal of the Eastside Light Rail Project, between Gless Street and U.S. Highway 101, including the widening of 1st Street, the construction of a sidewalk of variable width and the construction of new retaining walls and also the increase of the turning radius from the 101 Freeway off-ramp onto 1st Street. The Board has the option to withhold adoption of the Resolution of Necessity. This would result in an additional delay in obtaining possession of the required property, and thereby cause delays and increased costs to the Eastside Light Rail Project.

ATTACHMENTS

Attachment 1 - Staff Report

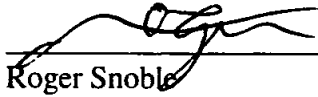
Attachment 2 - Resolution of Necessity

Attachment 3 – Declaration Re Due Diligence to Located Steven S. Hanft

Prepared by: Velma C. Marshall
Director of Real Estate



Don Ott, Executive Officer
Administration



Roger Snoble
Chief Executive Officer

STAFF REPORT REGARDING THE NECESSITY FOR THE ACQUISITION OF PARCEL NO. ES-654 FOR THE EASTSIDE LIGHT RAIL PROJECT.

BACKGROUND

The subject parcel is required for the construction and operation of the Eastside Light Rail Project – West Portal project enhancements. The address, record owner (as indicated by title reports prepared by Orange Coast Title Company), property description and nature of the property interest sought to be acquired (based upon the Final Modified Initial Study/Addendum for the Proposed Project Enhancements to the Los Angeles Eastside Light Rail Project), are as follows:

Parcel No.	Address	Owner(s)	Property Description	Property Interest
ES-654	1623 E. 1 st St., Los Angeles	Steven S. Hanft	Vacant Lot	Fee Simple Interest

A written offer has not been made to the property owner for the acquisition of the required property interests. Despite extensive efforts, the owner of record has not been located. Various certified, return-receipt requested letters have been mailed to the owner of record at the address listed on the Los Angeles County Tax Assessor's Roll as well as other addresses where the owner may have resided. Letters were mailed dated February 18, 2003, April 30, 2003, May 5, 2003, June 20, 2003, and July 17, 2003. No response has been received to any of the letters addressed to the owner. In addition, an investigator retained by County Counsel conducted a search of the California voter registration rolls, utility company records, telephone records, Secretary of State records, marriage records, death records and property records in an attempt to locate the owner, but was unsuccessful in finding the residence or business address of the owner. The investigator's declaration regarding his due diligence in trying to locate the owner of record is attached.

Following is an analysis as to why the attached Resolution of Necessity should be adopted. Additional information justifying the adoption of the Resolution is contained in the Final Modified Initial Study/Addendum for the Proposed Project Enhancements to the Los Angeles Eastside Light Rail Transit Project, which was certified by the Board on July 24, 2003, and the Final Environmental Impact Report and Environmental Impact Study for this project which was certified by the Board on February 28, 2003 and the other environmental documents and analyses referenced therein.

In the spring of 2001 a Draft Environmental Impact Report and Environmental Impact Study (DEIR/EIS) was circulated and reviewed by interested and concerned parties, including private citizens, community groups, the business community, elected officials and public agencies. Public hearings were held to solicit citizen and agency comments. A No-Build Alternative and three

Locally Preferred Alternatives (“LPA”) were presented in the DEIR/EIS. On May 24, 2001 the MTA Board formally adopted the LPA for the East Side Corridor to be the Light Rail Transit Project after review and consideration of the comments received from circulation of the DEIR/EIS. In October 2001, a Final Environmental Impact Report and Environmental Impact Study (FEIR/EIS) was circulated to present the Locally Preferred Alternative for the Eastside Corridor Project.

On July 24, 2003, the Board adopted an Addendum to the FEIR/EIS to evaluate the environmental impacts associated with proposed “Project Enhancements” to the previously adopted Los Angeles Eastside Corridor.

The Eastside Light Rail project is a six-mile easterly extension of the Pasadena Gold Line that terminates at Union Station. The Eastside Light Rail project will begin at Union Station and cross over US 101 on an aerial structure and then gradually become an at-grade segment near the intersection of Alameda Street and Ducommon Street. The alignment continues south along the east side of Alameda Street and turns east at the center of 1st Street and continues at grade to Clarence Street in Boyle Heights and then becomes a subway segment. The subway segment traverses underneath or adjacent to 1st Street for about 1.7 miles east to just west of Lorena Street in Boyle Heights. The alignment continues as an at-grade segment traversing 1st Street east from Lorena Street to Indiana Street where it turns south and continues along the east side of Indiana Street to 3rd Street. At 3rd Street, the alignment turns eastward and continues at grade to Pomona Boulevard where it terminates at Atlantic Boulevard. The proposed eight stations of the LPA are located at 1st/Alameda, 1st/Utah, 1st/Boyle, 1st Soto, Indiana Street (off street location), 3rd/Ford, 3RD/Mednik and Pomona/Atlantic.

The parcel included in this action is required to implement the project enhancements for the West Portal to the subway segment. The project alignment proceeds easterly, at grade, in the middle of 1st Street. At Gless Street (one block west of Parcel 654), the alignment initiates its descent, a 30 foot U-section extending 270 feet to just west of the U.S. Highway 101 Freeway off-ramp. The off-ramp will be reconfigured and improved to accommodate the project in this location. Parcel 654 will be used for this reconfiguration and improvement. The alignment then continues to proceed east into the 1.7 mile tunnel. Approximately 20 feet of roadway remains on either side of the U-Section. Parking is restricted on either side. Additional property takings are required to provide an 8-foot sidewalk.

A. The public interest and necessity require the Project.

The public interest and necessity require the project for the following reasons:

1. The Eastside Corridor communities of Boyle Heights and East Los Angeles are characterized by a large and growing population (over 212,000 according to the 1990 census, 275,000 expected by 2020) of predominately Latino ethnic origin, a high percentage of low-income households and relatively high rates of transit use and transit dependence. In these communities, nearly 20 percent of workers use the bus system on their journey to work (as compared to 6.5 percent for Los Angeles County as a whole), and rates of carpooling and walking to work are also

higher than the County average. Employment densities are six times higher within the Eastside Corridor than Los Angeles County as a whole. The corridor is growing (20 percent population and 30 percent employment growth between now and 2020), and a new transportation investment would make the Corridor attractive for other types of urban investment in the future. All major freeways serving the Eastside Corridor area are currently operating above their design capacities during peak period, and for significant durations during off-peak periods. No major improvements to existing freeways in the study area are identified in any adopted transportation plans. Residents of the Eastside Corridor have expressed their desire for improved transit service because many are transit dependent and need improved access to the region's educational, employment and cultural opportunities. This project will further these goals and contribute to an improved overall transportation system for the Los Angeles region and for the Eastside Corridor specifically.

2. Implementation of the Project will improve access and mobility for residents, employees and visitors to the Eastside Corridor and result in a reduction of vehicle miles per day and reduction of auto air pollutants.
3. The Project will support land use and development goals as stated in the City of Los Angeles and County of Los Angeles plans for joint development opportunities, and increased land use intensity in transit station areas.
4. The Project will provide convenient access and improve connectivity to the regional transit system and will thereby provide alternative means of transportation during fuel crises.
5. The Project will meet the need for improved transit service of the many transit-dependent people within the Eastside Corridor area.

It is recommended that based on the above evidence, the MTA find and determine that the public interest and necessity require the Project.

- B. The proposed Project is planned and located in the manner that will be the most compatible with the greatest public good and least private injury.

In the case of the Eastside Light Rail Project, 1st Street is one of four major streets with high levels of commuting traffic as well as high transit usage that move in an east-west direction primarily. It runs through the dense community of Boyle Heights. In addition to the high levels of commuting traffic, a station is located at 1st and Boyle due to the density of the area and the location of major job producers being the White Memorial Medical Center and Hollenbeck Police Station down the street. First (1st) Street in this area is currently 56 feet wide with a 12-foot right of way on either side. It has four lanes, two in each direction, and parking lanes on both sides. The area is residential in nature with the Pecan Street Playground being located between Gless and Pecan Streets, south of 1st Street. The proposed improvements to 1st Street will reduce the traffic lanes to one (1) lane of traffic in each direction. The sidewalks will be reduced to 5 ft (clear of obstacles), with a tapered transition to 8 feet.

It is recommended that, based upon the foregoing, the MTA find and determine that the project

enhancements at the West Portal are located in the manner that will be most compatible with the greatest public good and the least private injury.

C. The subject property interest is necessary for the proposed Project.

Parcel ES-654 requires a full fee taking for the construction and operation of the enhancements at the West Portal, including the improvements to 1st Street and the 101 Freeway Ramp. This parcel was identified based upon the Final Modified Initial Study/Addendum for the Proposed Project Enhancements to the Eastside Light Rail Project. Parcel ES-654 is legally described more specifically in the attached Exhibit "A" and is generally depicted in the parcel plat map attached hereto as Exhibit "B", both of which are incorporated herein by this reference.

D. No offer has been made because the owner cannot be located with reasonable diligence.

California Code of Civil Procedures Section 1245.230 requires that a Resolution of Necessity contain a declaration that the governing body has found and determined that either the offer required by Section 7267.2 of the California Government Code has been made to the owner(s) of record, or the offer has not been made because the owner(s) cannot be located with reasonable diligence.

California Government Code Section 7267.2 requires that an offer be made to the owner or to the owners of record and in an amount which the agency believes to be just compensation. The amount must not be less than the agency's approved appraisal of the fair market value of the property. In addition, the agency is required to provide the owner(s) with a written statement of, and summary of the basis for, the amount it established as just compensation.

The MTA staff has taken the following actions as required by California law for the acquisition of the subject property interest:

1. Obtained an appraisal to determine the fair market value of the property interest.
2. Reviewed and approved the appraisal, and established just compensation,
3. Determined the owner of the subject property interest by examining the county assessor's records and title report, and
4. Made a diligent effort to contact the owner to make the offer. After diligent efforts (described above) the owner could not be located and therefore no offer was made.

For the foregoing reasons, Staff recommends that the MTA Board adopt the resolution of necessity submitted concurrently herewith.

ATTACHMENT

- 1 - Legal Description (Exhibit "A")
- 2 - Plat Map (Exhibit "B")
- 3 - Declaration Re Due Diligence to Located Steven S. Hanft

ATTACHMENT 1
EXHIBIT "A"

THE LAND REFERRED TO IS SITUATED IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

LOTS 20, 21 AND THE EASTERLY 15 FEET OF LOT 22 OF CUMMINGS FIRST STREET TRACT, IN THE CITY OF LOS ANGELES, IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 60 PAGE 48 OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

FOR : STEVEN S. HANFT

The data shown on this map and/or plot are compiled from public sources and are subject to field verification. Bearings are based on North American Datum 13 (NAD 83).

DESCRIPTION : LOTS 20, 21 AND PORT OF LOT 22;

CUMMINGS FIRST STREET TRACT; M.R 60-48

ATTACHMENT 2
EXHIBIT "B"

BENCH MARK :

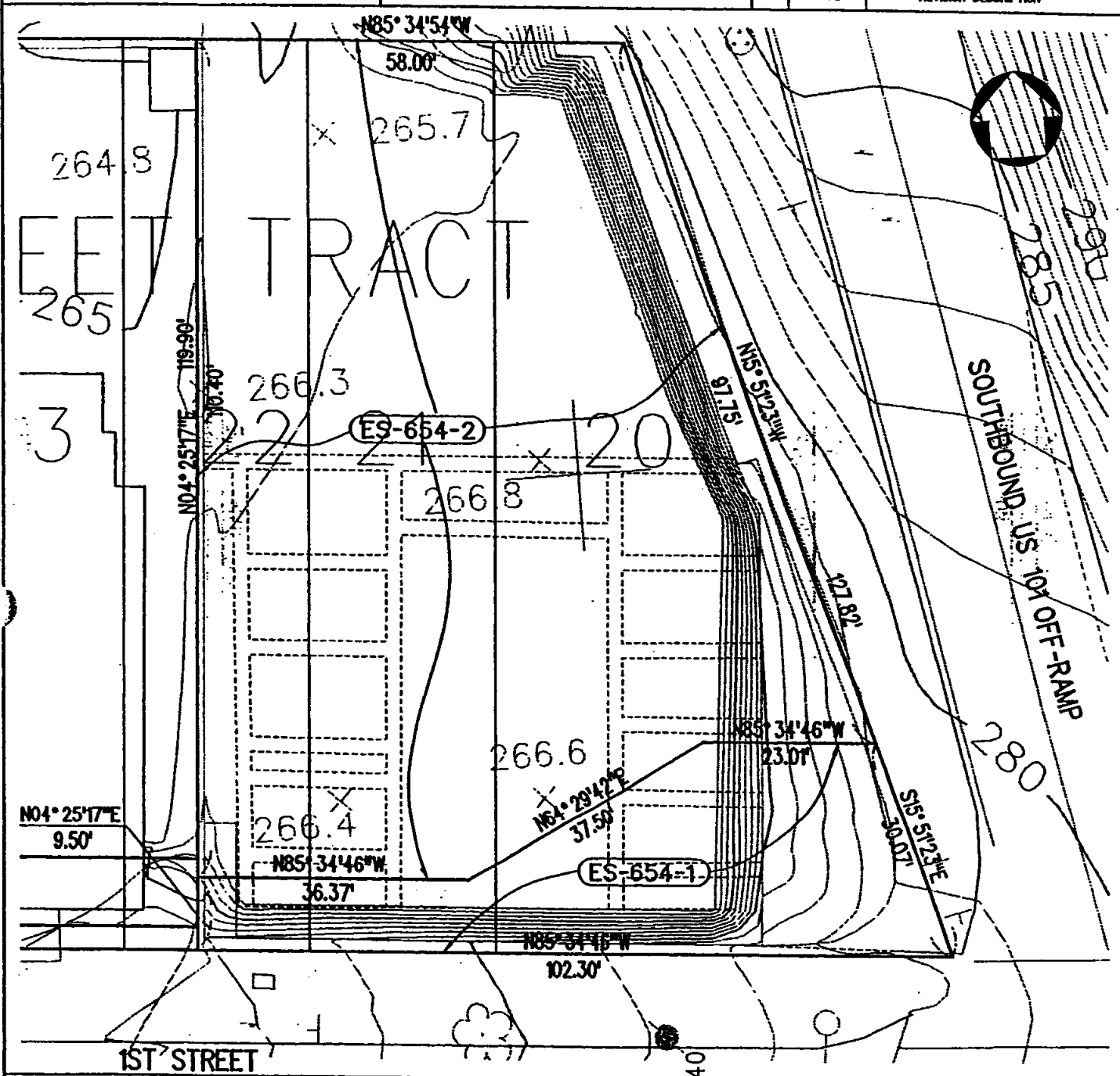
TITLE REPORT :

ADDRESS : 1623 E. 1st STREET

ASSESSORS REF. 5173-031-001

R.O.W. REFERENCE RW-009; ES-654

NO.	DATE	REVISION DESCRIPTION
1	02/07/03	ADD TEMP. CONST. EASEMENT



PARCEL NO.	ES-654 (TOTAL)			
NET AREA - SQUARE FEET	9,610			

M LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY EASTSIDE LRT PROJECT

EASTSIDE LRT PARTNERS
 an association of
 Parsons Brinckerhoff Group, a Group, Inc.
 Hillier Group, Inc.
 Skidmore, Merrill & Partners, Inc.

SUBMITTED BY: ELRT PROJECT MANAGER

APPROVED BY:
 MTA PROJECT MANAGER

DATE

PARCEL PLAT

ES-654
 SHEET 1 OF 1

CONTRACT NO./DESIGN UNIT C0800	
SCALE 1" = 20'	
DATE 11/12/02	
DRAWN BY C. GRIFFITH	
CHECKED BY L E RUSH	
REV. DATE 02/07/03	REV. NO. 1

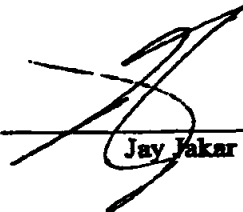
**DECLARATION OF JAY JAKAR
RE DUE DILIGENCE TO LOCATE STEVEN S. HANFT FOR SERVICE**

I, Jay Jakar declare and state that; I am over the age of 18 and not a party to this action. That, I have personal knowledge of the facts contained herein and if called upon to testify thereto in a court of law could and would competently do so.

That; I am an investigator employed by Specialized Litigation Services, Inc., service of process vendor for the Office of the Los Angeles County Counsel. That; on July 18, 2003, in the normal course of business, I was requested by Mark T. Yanai, Principal Deputy County Counsel, Public Works Division, to locate a Steven S. Hanft for the service of process. In attempting to locate Steven S. Hanft I performed a diligent search of California voter registration, utility companies, telephone records, Secretary of State records, marriage and death records and property records. All searches were negative with the exception of property records.

Property records revealed that Steven S. Hanft was listed as owner of five (5) properties located in Los Angeles County. Upon on site investigation, none of these properties are the home or business address of Steven S. Hanft where one could reasonably expect to effect a personal or sub-service. Based upon all of the above information, it is my conclusion that Steven S. Hanft can not be located for service of process at this time.

I declare, under the penalty of perjury, that the foregoing is true and correct.
Executed this 8th day of August, 2003 at Los Angeles, California.



Jay Jakar

**RESOLUTION OF THE
LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY
RE THE ACQUISITION OF PROPERTY NECESSARY FOR THE EASTSIDE LIGHT RAIL
PROJECT – WEST PORTAL ENHANCEMENTS**

THE LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION
AUTHORITY HEREBY FINDS, DETERMINES, AND RESOLVES AS FOLLOWS:

Section 1.

The Los Angeles County Metropolitan Transportation Authority ("MTA") is a public entity organized and existing pursuant to Chapter 2 of Division 12 of the California Public Utilities Code (commencing with Section 130050).

Section 2.

The property interests described hereinafter are to be taken for public use, namely, for public transportation purposes and all uses necessary, incidental or convenient thereto, in connection with the development, construction, operation and maintenance of the Eastside Light Rail Project – West Portal Enhancements ("Project");

Section 3.

The MTA is authorized to acquire the property interests described hereinafter pursuant to the following:

- a. Article I, Section 19 of the Constitution of the State of California;
- b. California Public Utilities Code, Division 10, Part 3 (Sections 30000-33020, inclusive), and Sections 30503 and 30600 in particular;
- c. California Public Utilities Code, Division 12 (Sections 130000-130730, inclusive), and Section 130220.5 in particular; and
- d. California Code of Civil Procedure Sections 1240.010-1273.050, inclusive.

Section 4.

The property to be acquired is located in the City of Los Angeles, and is more particularly identified as follows:

- a. The fee simple title in and to Parcel No. ES-654, consisting of 9,610 square feet ;
- b. Parcel ES-654 is described more specifically in Exhibit "A", attached hereto, and is generally depicted in the Parcel Plat Map attached hereto as Exhibit "B", both of which are incorporated herein by this reference.

Section 5.

(a) The environmental impacts of the Project were evaluated in the Eastside Light Rail Project Final Environmental Impact Report ("FEIR"), the Eastside Light Rail Project Final Environmental Impact Study ("FEIS") and the Final Modified Initial Study/Addendum for the Proposed Project Enhancements ("Modified Study") for this Project; and

(b) The Los Angeles County Metropolitan Transportation Authority has reviewed and considered the FEIR/FEIS and the Modified Study, before and as part of the process of determining whether to acquire the above-referenced property.

Section 6.

The Los Angeles County Metropolitan Transportation Authority hereby declares that it has found and determined each of the following:

(a) The public interest and necessity require the proposed Project;

(b) The proposed Project is planned or located in the manner which will be most compatible with the greatest public good and the least private injury;

(c) The property sought to be acquired, which has been described herein, is necessary for the proposed Project; and

(d) The offer required by Section 7267.2 of the Government Code has not been made because the owner of record cannot be located with reasonable diligence.

Section 7.

Legal counsel is hereby authorized and directed to take all steps necessary to commence legal proceedings, in a court of competent jurisdiction, to acquire the property described above, by eminent domain. Counsel is also authorized to seek and obtain an Order of Immediate Possession of said property in accordance with the provisions of the eminent domain law and to deposit the total sum of probable just compensation fixed by the Superior Court in its order determining and establishing security for said immediate possession with the Clerk of said Superior Court in connection therewith.

Counsel is further authorized, pursuant to Section 30258 of the Public Utilities Code, to associate with, at its election, a private law firm for the preparation and prosecution of said proceedings.

I, MICHELLE JACKSON, Secretary of the Metropolitan Transportation Authority, do hereby certify that the foregoing Resolution was duly and regularly adopted by the Metropolitan Transportation Authority at a meeting held on the _____ day of _____, 2003.

MICHELLE JACKSON
MTA Secretary
Date: _____

APPROVED AS TO FORM:
Lloyd W. Pellman
County Counsel

BY: 